

1979 WL 42799 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 7, 1979

**\*1 Re: Requested Attorney General's Opinion**

Honorable Charlie G. Williams  
State Superintendent of Education  
South Carolina Department of Education  
1429 Senate Street  
Rutledge Building  
Columbia, South Carolina 29201

Dear Dr. Williams:

You have requested an opinion of this Office concerning the effect of Section 31 of the 1978-79 General Appropriations Act, Act Number 644, Acts Joint Resolutions of South Carolina, 1978, in setting salaries for county school lunch supervisors and attendance supervisors. Act Number 644 of 1978 increased the state aide for attendance and school lunch supervisor's salaries from \$8,100.00 to \$8,586.00 per county. Specifically, you have asked whether a county must expend the entire amount appropriated in the 1978-79 General Appropriations Act for the two positions in question, or stated otherwise, may a county pay the same amount in state aid for the positions in question as in 1977-78 and return the remainder to the state.

The pertinent portions of Act Number 644 are as follows:

Provided, Further, that the amount appropriated in this section for county school lunch supervisors shall be used for the payment of salaries of one supervisor for each county at the rate of \$8,586.00 each per year, and no such salary shall be supplemented from funds provided in this section for 'School Lunch Program Aid.'

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Provided, Further, that the amount appropriated in this section for attendance supervisors shall be used for the payment of salaries of one supervisor for each county at the rate of \$8,586.00 each per year.

The General Assembly apparently intended that the two above quoted provisos be mandatory, rather than merely directory, as indicated by the use of the word 'shall'. [Florida Tallow Corp.-v.-bryan](#), 237 So. 2d 308 (Fla. 1970). The term 'shall' is generally defined as a command, promise, or determination. [The Oxford English Dictionary](#), Vol. IX. (Oxford, 1933). Thus, the General Assembly must have intended that the expenditure of the full \$8,586.00 appropriated for salaries of school lunch supervisors and attendance supervisors be mandatory, and Act Number 644 manifests no intention that school districts may expend less than the appropriated state aid for the aforementioned employees.

Enclosed you will find a copy of an Attorney General's Opinion dated June 28, 1977. This opinion states that the Charleston County School District has no statutory authority to reduce salary increases implemented in the salary schedule included in permanent provisions of the 1977 General Appropriation Act for non-teaching principals who are eligible for state aid. 1976-1977 opinions of the Attorney General, Number 77-196, p. 149. The reasoning contained in this Opinion applies also to the questions you have presented.

With Kind regards,  
Sincerely,

Paul S. League  
Assistant Attorney General

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